

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our)	GN Docket No. 09-51
Future)	
)	
Establishing Just and Reasonable Rates)	WC Docket No. 07-135
for Local Exchange Carriers)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Inter-carrier)	CC Docket No. 01-92
Compensation Regime)	
)	
Federal-State Joint Board on Universal)	CC Docket No. 96-45
Service)	
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	

REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.

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May 23, 2011

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REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY, INC.

I. INTRODUCTION AND SUMMARY

Puerto Rico Telephone Company, Inc. (“PRT”) submits these reply comments in response to the Commission’s Notice of Proposed Rulemaking on reform of the Universal Service Fund (“USF”) high cost mechanism and intercarrier compensation regime and implementation of the Connect America Fund (“CAF”).¹ The record provides additional

¹ *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rats for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, CC Docket No. 01-92, CC Docket 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) (“NPRM”).

evidence of the unique challenges and high costs associated with broadband deployment in insular areas. These higher costs coupled with the demographic characteristics of insular areas—which generally have a much lower-income subscriber base than the mainland United States—mean an economic business case for broadband deployment does not exist, and, as such, support for both deployment and adoption is needed. Accordingly, as the FCC embarks on USF reform, it should ensure that its policies first do no harm to areas of the country that are already so far behind the mainland United States in both telephone penetration and broadband adoption. As the Commission recently recognized, “[t]he costs of digital exclusion are high and growing: lack of broadband limits healthcare, educational, and employment opportunities that are essential for consumer welfare and America’s economic growth and global competitiveness.”² Thus, to ensure a successful transition, PRT advocates for maintaining existing USF support in insular areas until broadband deployment and subscribership measures in these areas are on par with the rest of the nation.

Additionally, as the FCC designs the CAF, it should follow four specific recommendations, which were also supported by a variety of commenters. *First*, the Commission should use a speed threshold higher than 768 kbps down—such as 4 MBs down and 1 MBps up—to identify unserved areas eligible for CAF funding. *Second*, the CAF should be based primarily on a competitive bidding framework, with bidding credits for insular areas, that would distribute support to one provider per area to maximize the efficiency and flexibility of the fund. And, *third*, the Commission should use the CAF to support wireline and fixed broadband

² *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, Seventh Broadband Progress Report and Order on Reconsideration, GN Docket No. 10-159, FCC 11-78, ¶ 4 (rel. May 20, 2011) (“*Seventh Broadband Report*”).

services and use a separate funding mechanism to support wireless broadband. Through such a framework, the CAF would be targeted to ensure the FCC's broadband investments would result in bringing advanced broadband services to all regions of the nation through networks that could best evolve to meet future broadband needs.

Lastly, a number of commenters agree that the Commission should provide a recovery mechanism to replace access charge revenue lost as a result of intercarrier compensation reform. Because insular carriers like PRT rely on access charge revenues to recover network maintenance costs and do not have other opportunities to make up this revenue, the Commission should either exempt insular carriers from its intercarrier compensation reforms that would reduce access charges—at least until broadband deployment and subscribership improves—or otherwise provide explicit support to replace lost access charge revenue.

II. THE RECORD PROVIDES ADDITIONAL EVIDENCE THAT USF REFORMS MUST TAKE INTO ACCOUNT THE UNIQUE NEEDS OF INSULAR AREAS.

Any reform to the USF must take into account the unique needs of insular areas as required by the plain terms of Section 254(b) of the Communications Act.³ As the record indicates, carriers in Puerto Rico and other insular areas face a number of demographic, economic, geographic and climatic challenges to broadband and wireline telecommunications deployment. In fact, in the one year since the FCC's last Section 706 broadband progress report, the *Sixth Broadband Report*,⁴ the FCC has done little to address unserved Puerto Ricans. Even using a different methodology, the Commission's recently released *Seventh Broadband Report*

³ 47 U.S.C. § 254(b).

⁴ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, Sixth Broadband Deployment Report, 25 FCC Rcd 9556 (2010) ("*Sixth Broadband Report*") (reporting that 100% of the population of Puerto Rico was unserved by broadband at 4 MBps down and 1 MBps up).

indicates that, in Puerto Rico, nearly three-fourths of the population remains unserved by broadband at speeds of 3 MBps down and 768 kbps up compared with 8% of the population of all states and territories with unserved areas.⁵ Given this huge disparity, if the Commission fails to adhere to its statutory duty to address these challenges, the people of Puerto Rico and other insular areas will fall even further behind the rest of the nation in both telephone and broadband deployment and subscribership. The only way to prevent this is to maintain existing support to Puerto Rico and insular areas until the levels of telephone and broadband deployment and subscribership in these areas are on par with national levels.

As an initial matter, PRT reiterates that Section 254(b)'s plain terms mandate that the Commission take into account the unique needs of insular areas. Section 254(b) states that the Commission "shall" base its universal service support mechanisms on the principle that consumers in "insular" areas should have access to "advanced telecommunications and information services" that are "reasonably comparable" to those in urban areas.⁶ Indeed, Section 254(b)(3) lists "insular" areas as a category separate and apart from "rural" and "high cost" areas, thus mandating that the Commission address the lack of access to broadband in insular areas like Puerto Rico. And because the statute should be read to give significance to every word,⁷ the position advocated by the Virgin Islands Telephone Corporation, requesting that the

⁵ *Seventh Broadband Report*, Appendix D (reporting Form 477 census tract data). However, using the county-level methodology used in the *Sixth Broadband Report*, the FCC reports that 98% of the population of Puerto Rico remains unserved by 3 MBps down and 768 kbps up, showing that no improvement has been made since last year. *See id.* Appendix C.

⁶ 47 U.S.C. § 254(b).

⁷ *See, e.g., Regions Hosp. v. Shalala*, 522 U.S. 448, 467 (1998) ("It is a cardinal rule of statutory construction that significance and effect shall, if possible, be accorded to every word.") (internal quotation marks and citation omitted); *United States v. Menasche*, 348 U.S. 528, 538-39 (1955) (explaining that a law must be read "to give effect, if possible, to every clause and word

FCC provide support only to rural, insular areas, is untenable and would not fulfill the Commission's statutory duty.⁸ In fact, the Commission has agreed that "Congress intended that consumers in insular areas, as well as in rural and high-cost areas, have access to affordable telecommunications and information services."⁹ Congress explicitly determined that both "rural" and "insular" areas should benefit from universal service support. "[I]n interpreting a statute a court should always turn to one cardinal canon before all others. . . . [C]ourts must presume that a legislature says in a statute what it means and means in a statute what it says there." *Connecticut Nat'l Bank v. Germain*, 112 S. Ct. 1146, 1149 (1992). And "when the words of a statute are unambiguous, then, this first canon is also the last: 'judicial inquiry is complete.'" *Id.* For this reason, the Commission must ensure that all insular areas, including non-rural, insular areas, are taken into account as it embarks on USF reform.

Commenters from insular areas provide additional record support that Puerto Rico and other insular areas face unique demographic, economic, geographic, and climatic challenges to broadband deployment. For example, insular areas face significant geographic and climatic challenges based on their isolated nature and tropical climates, which ultimately result in higher operational costs. As noted previously, PRT faces higher shipping related costs, higher operational costs due to the topography of Puerto Rico, and higher operational costs due to Puerto Rico's tropical climate, which is corrosive to telecommunications equipment, and tropical

of a statute"); *see generally* 2A Norman J. Singer, Sutherland Statutory Construction § 46.06 (6th ed. 2000).

⁸ See Comments of Virgin Islands Telephone Corporation d/b/a Innovative Telephone, WC Docket No. 10-90 at 2 (filed Apr. 18, 2011) ("Virgin Islands Telephone Comments").

⁹ See *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, Notice of Proposed Rulemaking, 20 FCC Rcd 19731, ¶ 33 (2005) ("2005 NPRM").

storms and hurricanes, which plague the area.¹⁰ Other insular carriers, including those in Puerto Rico, experience similar challenges.¹¹ As the Virgin Islands Public Services Commission stated, “[a]ll of the insular territories have difficult terrain and weather conditions.”¹² Indeed, as Hawaiian Telecom notes, sea air and salt water can be so corrosive to telecommunications equipment that its useful life may be shortened by 80 percent, and because of the unique conditions in insular areas, which face both the challenges of tropical weather and seismic activity, specialized equipment must often be used.¹³ In Guam and the Northern Mariana Islands, “unique topographic and climatic conditions, including mountainous areas, tropical storms, typhoons tsunamis, and significant earthquake activity” all “contribute to driving up costs” such as construction, shipping, and storage costs.¹⁴

The resulting high costs in insular areas make building a business case for broadband in insular areas very difficult, particularly when carriers cannot fully recover their costs over a low-income subscriber base. As a general matter, insular areas are much poorer than the mainland United States: in the insular territories, median household incomes are lower than all or most mainland states.¹⁵ And, as demonstrated in PRT’s initial comments, the citizens of Puerto Rico

¹⁰ See Comments of Puerto Rico Telephone Company, Inc., WC Docket No. 10-90 at 7-8 (filed Apr. 18, 2011) (“PRT Comments”).

¹¹ See Joint Comments of Docomo Pacific, Inc., PR Wireless, Inc., Choice Communications, LLC, and AST Telecom, LLC d/b/a Bluesky Communications, WC Docket No. 10-90 at 4-10 (filed Apr. 18, 2011) (“Joint Insular Wireless Comments”).

¹² Comments of the Public Services Commission of the U.S. Virgin Islands, WC Docket No. 10-90 at 7 (filed Apr. 18, 2011).

¹³ Comments of Hawaiian Telcom, Inc., WC Docket No. 10-90 at 4-5 (filed Apr. 18, 2011).

¹⁴ Joint Insular Wireless Comments at 5.

¹⁵ See Joint Insular Wireless Commenters at 5 (noting that in the Northern Mariana Islands the median income is \$17,138) at 6 (noting that in Guam the median income is \$40,373 and 23% of the population live below the poverty threshold) at 7 (noting that median income in Puerto Rico is \$18,610) and at 8 (noting that in the Virgin Islands the median income is \$34,983).

are far poorer than those in the mainland United States by any measure. In Puerto Rico, almost half of the population lives below the federal poverty line and the median income is approximately half that of the lowest mainland state.¹⁶ Additionally, Puerto Rico and other insular territories were hard hit by the global recession and are continuing to experience even higher employment rates and continuing severe economic ramifications.¹⁷

Because the business case for broadband deployment may not exist in many insular areas, insular areas continue to lag far behind the rest of the nation in both telephone and broadband deployment and subscribership. As such, despite OneLink's assertions to the contrary,¹⁸ Puerto Rico does indeed continue to lag behind the rest of the nation in broadband deployment. OneLink relies exclusively on the initial publication of Connected Nation's broadband mapping data to argue that 99% of the population of Puerto Rico has access to broadband at 768 kbps down and that Puerto Rico needs only "adoption" solutions to increase broadband subscribership.¹⁹ But, as PRT explained in its opening comments, the data upon which Connected Nation relied to calculate that 91% of the island had access to digital subscriber line ("DSL") service was inaccurate. PRT has since worked with Connected Nation to correct this data, as explained in detail in the appended declaration.²⁰ In fact, based on corrected data that has been since submitted to Connected Nation, PRT estimates that only approximately 79% of its wireline telephone network can provide wireline broadband services at download speeds of 768

¹⁶ See PRT Comments at 6.

¹⁷ See Joint Insular Wireless Comments at 5-8.

¹⁸ See Comments of San Juan Cable LLC d/b/a OneLink Communications, WC Docket No. 10-90 at 4-6 (filed April 18, 2011) ("OneLink Comments").

¹⁹ *Id.* at 6.

²⁰ See Exhibit A, Declaration of Julio Fondeur.

kbps or greater.²¹ Because PRT's wireline network does not reach 100% of the population, the percentage of the population with access to PRT's DSL service at speeds of 768 kbps down or greater is even lower than 79%. As Connected Nation continues its mapping efforts in Puerto Rico, PRT expects a clearer picture will emerge showing that a large percentage of the population lacks access to any wireline broadband provider. The 99% figure that OneLink cites refers to both wireline and mobile wireless coverage in Puerto Rico. While it may be true that mobile wireless providers that advertise broadband speeds up to 768 kbps down cover a large portion of the island, as discussed in Section III, below, PRT believes that the Commission should focus the CAF on supporting the deployment of wireline broadband services first, and defer support of mobile wireless broadband services to a separate fund, consistent with the Commission's recognition that wireline and mobile wireless broadband are not perfect substitutes at this time.

In short, given the additional record evidence of challenges faced by insular areas, and updated information on PRT's broadband deployment, the FCC must make broadband deployment in insular areas its top priority when it adopts the CAF.

III. THE RECORD SUPPORTS PRT'S RECOMMENDATIONS TO DESIGN THE CAF TO ENSURE THE AVAILABILITY OF ADEQUATE BROADBAND SPEEDS IN INSULAR AREAS.

The Commission should follow several specific recommendations, which are also supported by a variety of commenters, to design the CAF in a manner that would ensure that adequate broadband speeds would be made available throughout the nation, including in insular areas. *First*, the Commission should use a speed threshold higher than a 768 kbps download speed—ideally, 4Mbps down and 1 Mbps up—to identify areas unserved by broadband, and the

²¹ Exhibit A at 4.

FCC should ensure that it relies on accurate data in making this determination. *Second*, the CAF should distribute support primarily through a competitive bidding model with bidding credits available to providers serving insular areas. And, *third*, the Commission should focus the CAF on supporting wireline broadband services, while supporting mobile wireless broadband through a separate funding mechanism to best allow people in all regions to have access to same variety of advanced telecommunications and information services that people in urban areas enjoy.

Identification of Unserved Areas. To determine which areas are eligible for CAF support, the Commission should use a speed threshold higher than 768 kbps, such as the 4 MBps down and 1 MBps up speed threshold identified in the *National Broadband Plan* and in the *Seventh Broadband Report* because this threshold readily allowed consumers to access “high-quality voice, data, graphics, and video communications.”²² Further, as the Commission found, a 4 MBps down and 1 MBps up threshold also provides sufficient throughput to allow consumers to access an evolving level of broadband service.²³ That is why the Commission identified it as “the broadband capability . . . that should be available to all Americans.”²⁴ Other commenters agree that a speed threshold higher than 768 kbps down is needed to identify unserved areas to ensure that adequate support is provided to areas in need of advanced broadband services.²⁵ By contrast, using a 768 kbps down speed threshold to identify unserved areas will unnecessarily

²² *Connecting America: The National Broadband Plan* at 135 (rel. Mar. 16, 2010), available at <http://download.broadband.gov/plan/national-broadband-plan.pdf> (“*National Broadband Plan*”); *Seventh Broadband Report* ¶¶ 14-15; see also *Sixth Broadband Report* ¶ 11.

²³ *Sixth Broadband Report*, ¶ 14.

²⁴ *Id.* ¶ 5.

²⁵ See e.g., MTPCS LLC d/b/a Cellular One and N.E. Colorado Cellular d/b/a VIAERO Wireless, WC Docket No. 10-90 at 27 (filed Apr. 18, 2011) (recommending the use of a 4 MBps down/1MBps up speed threshold to identify unserved areas); Comments of Nebraska Public Service Commission, WC Docket No. 10-90 at 15 (filed Apr. 18, 2011) (recommending 3 MBps down/768 kbps up).

exclude from CAF support many areas that are not currently served by advanced broadband services and may only be served by third generation mobile wireless services that advertise a 768 download speed. Adopting a 768 kbps threshold would thus condemn such areas to continue to lag behind the majority of the country in terms of broadband availability.

Whatever speed threshold the Commission adopts, it should be the same threshold for measuring unserved areas and carrier satisfaction of its broadband deployment obligation pursuant to the CAF. For example, AT&T proposes using 3 MBps down and 768 kbps up as the speed threshold for eligibility under the CAF.²⁶ If the Commission chooses this speed tier, PRT would support using this same benchmark to identify unserved areas. Ultimately, the Commission's benchmarks to identify unserved areas and to determine carrier eligibility for the CAF should be the same to ensure that all areas have access to the same level of advanced broadband services.

Lastly, the Commission should ensure that under any benchmark used to identify CAF-eligible unserved areas, the data upon which it relies are accurate. As noted in Section II above and in the appended declaration, PRT has worked with Connected Nation to correct inaccurate data on the availability of DSL service in Puerto Rico. PRT estimates that its DSL services are available only to approximately 79% of its existing wireline telephony network, not 91% of the total population.²⁷ The Commission is already aware of such inaccuracies and has recently noted that its initial analysis of the State Broadband Data and Development ("SBDD") broadband mapping data "reveals some potential gaps and inaccuracies in the data that may affect the

²⁶ See Comments of AT&T, WC Docket No. 10-90 at 94 (filed Apr. 18, 2011) ("AT&T Comments").

²⁷ See Exhibit A.

accuracy of [its] estimates of broadband deployment.”²⁸ Further the Commission has determined not to include SBDD data on mobile broadband services due to its “concern that these data do not accurately reflect where subscribers actually are able to obtain service that meets the broadband performance threshold.”²⁹ As such, the Commission should ensure that all data collected to determine CAF eligibility has been sufficiently vetted by providers before CAF-eligible areas are determined.

Use of a Competitive Bidding Model. PRT agrees with a wide range of commenters that all phases of the CAF should distribute support primarily through competitive bidding to one provider per service area.³⁰ As PRT has previously noted, cost models have not historically accurately accounted for the costs of providing service in insular areas and have greatly underestimated the support needed.³¹ Instead, a reverse auction approach achieved through competitive bidding mechanism would efficiently distribute much needed support to unserved areas, while also allowing the use of bidding credits in insular areas, which are widely supported by insular commenters.³² But, in addition to the Commission’s “competitive bidding everywhere” model,³³ PRT would also support a system that would allow existing fixed broadband providers a right of first refusal (“ROFR”) to be the CAF eligible telecommunications

²⁸ *Seventh Broadband Report*, Appendix F, ¶ 8.

²⁹ *Id.* ¶ 26.

³⁰ *See, e.g.*, Comments of Verizon and Verizon Wireless, WC Docket No. 10-90 at 58 (filed Apr. 18, 2011), Comments of Cox Communications, WC Docket No. 10-90 at 47 (filed Apr. 18, 2011); Comments of XO Communications, WC Docket No. 10-90 at 6; Comments of Comcast Corporation, WC Docket No. 10-90 at 16 (filed Apr. 18, 2011); Comments of ViaSat, Inc., WC Docket No. 10-90 at 24 (filed Apr. 18, 2011).

³¹ *See* PRT Comments at 14 & n. 40.

³² *See, e.g.*, Joint Insular Wireless Commenters at 10; Virgin Islands Telephone Comments at 9.

³³ *NPRM* ¶ 418.

carrier (“ETC”) to receive support to serve an area prior to an auction, similar to AT&T’s proposal.³⁴ Under such a model, the CAF ETC should be identified on a wire-center basis, and if the CAF ETC opts not to exercise its ROFR, it should remain eligible to participate in the competitive bidding process to serve that area.

The CAF Should Support Wireline Broadband Services. PRT agrees with AT&T’s recommendation that the Commission should create a separate Advanced Mobility Fund within the CAF to support mobile services.³⁵ The CAF itself should be used to support wireline broadband services. This is consistent with the *National Broadband Plan*’s recognition that, “[w]ireless broadband may not be an effective substitute in the foreseeable future for consumers seeking high-speed connections at prices competitive with wireline offers.”³⁶ Supporting wireline and mobile wireless broadband services separately is also consistent with the Commission’s recognition that currently mobile broadband speeds, capacity, and penetration are typically much lower than for wireline broadband services.³⁷ Instead, in Puerto Rico, adequate support for wireline services would not only bring Puerto Rico up to par with the rest of the nation’s existing wireline broadband and telecommunications services, but it would do so efficiently by leveraging existing infrastructure. And investing in wireline networks would also help to ensure that the FCC’s broadband investments would support an evolving level of broadband services. A separate Advanced Mobility Fund would further allow the Commission

³⁴ AT&T Comments at 98.

³⁵ AT&T Comments at 108.

³⁶ *National Broadband Plan* at 41.

³⁷ See *Preserving the Open Internet Broadband Industry Practices*, Report and Order, 25 FCC Rcd 17905, ¶ 95 (2010); see also *Seventh Broadband Report*, ¶ 26 (declining to include mobile broadband data in its analysis of broadband deployment because the conditions under which peak speeds reach the broadband threshold are still relative rare).

to support mobile broadband options in Puerto Rico and all insular areas so that these areas to have access to the same variety of broadband services available in urban areas.

In sum, the Commission should use both a higher speed threshold—the same speed threshold used to determine carrier eligibility for CAF funding—and reliable data to identify unserved areas. And to distribute CAF funds, the Commission should pursue an approach that is primarily based on competitive bidding and create separate mechanisms to support wireline and wireless broadband services.

IV. THE COMMISSION SHOULD SUPPLEMENT LOST INTERCARRIER COMPENSATION REVENUE THAT RESULTS FROM INTERCARRIER COMPENSATION REFORM, PARTICULARLY IN INSULAR AREAS.

Access charge compensation is a critical component of revenues necessary to build and maintain broadband capable networks, particularly in insular areas like Puerto Rico. A number of commenters agree that a recovery mechanism or other method of replacing lost intercarrier compensation revenue will be needed as a result of intercarrier compensation reform.³⁸ This is particularly true in insular areas, which, as discussed above, face higher costs. In Puerto Rico, with access lines falling consistently each year, and a very poor subscriber base, revenue opportunities to recover investment are diminishing. Because PRT's access charges are already limited by commitments made to the FCC to become a price cap carrier,³⁹ and because the access charge revenue that the company does receive is necessary to help recover network maintenance costs, any intercarrier compensation reform that would reduce access charge revenue received by PRT would threaten the company's ability to meet its obligation to continue to serve Puerto

³⁸ See Comments of Windstream Communications, Inc., WC Docket No. 10-90 at 46 (filed Apr. 18, 2011); Comments of CenturyLink, WC Docket No. 10-90 at 63, Comments of Frontier Communications Corporation, WC Docket No. 10-90 at 4-10 (filed April 18, 2011).

³⁹ *Petition of Puerto Rico Telephone Company, Inc., for Election of Price Cap Regulation and Limited Waiver of Pricing and Universal Service Rules*, Order, 23 FCC Rcd 7353 (2008) ("PRT Price Cap Order").

Rico. As a result, if any reforms would decrease an insular carrier's access charge revenue, the Commission should either exempt insular areas from its intercarrier compensation reform effort, at least until broadband deployment and subscribership improves, or adopt a mechanism whereby such carriers would receive additional explicit support to make up for lost support, as the FCC contemplated might be necessary in insular areas.⁴⁰ Providing explicit support would be consistent with the Commission's preference for explicit support through universal service mechanisms, rather than implicit support through access charges, while also maintaining much-needed support in insular areas.⁴¹

V. CONCLUSION

For the foregoing reasons, the Commission should ensure that Puerto Rico and other insular areas continue to receive existing levels of universal service support until these areas' broadband and telephone penetration and deployment rates are comparable to that of the rest of the nation. And, as the FCC implements the CAF, it should make support available to areas lacking broadband at a speed threshold higher than 768 kbps—such as 4 MBps down and 1 MBps up. It should also rely primarily on a competitive bidding approach while providing funding through separate mechanisms for wireline and wireless broadband services. Finally, if the FCC's intercarrier compensation reforms decrease access charge revenues in insular areas like Puerto Rico, the Commission should replace such lost revenue with explicit support or else

⁴⁰ *NPRM* ¶ 492

⁴¹ *PRT Price Cap Order* ¶ 23 (citing *Multi-Association Group (MAG) Plan for Regulation of INtersate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Second Report and Order, 16 FCC Rcd 19613, ¶¶ 15, 62-68 (2001); *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long-Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order, 15 FCC Rcd 12962, ¶ 111 (2000)).

exempt insular areas from intercarrier compensation reforms until such areas show improvement in broadband deployment and subscribership.

Respectfully submitted,

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DECLARATION OF JULIO C. FONDEUR

1. My name is Julio C. Fondeur. I am the Fixed Network Engineering Director at Puerto Rico Telephone Company ("PRT"). I have held this role for one year. Prior to that, I had product development and marketing responsibilities for the company. I have a total of 28 years of experience as an engineer in the telecommunications and broadband industry. In my capacity as Fixed Network Engineering Director, I am responsible for collecting and reporting data regarding the availability of PRT's Digital Subscriber Line ("DSL") service in Puerto Rico to Connected Nation. As such, over the past year, I have provided these data to Chris Pederson, Senior Stakeholder Relations Manager of Connected Nation.

2. In April 2010, Connected Nation contacted PRT and requested that PRT provide information on its DSL broadband availability to add to a broadband availability map for Puerto Rico. PRT was given just two weeks to collect and provide this data. In the spirit of cooperation, I provided Connected Nation with the geographic coordinates of its central offices (“CO”) and remote offices (“RO”) that included a DSL point of presence (“DSLAM”). At the time, I mistakenly suggested that PRT could theoretically serve customer premises within 18,000 feet of the COs or ROs with DSL broadband at a download speed of 768 kbps. I explained that this was just an estimate and would not likely provide an accurate picture of PRT’s DSL broadband availability. I later determined that the 18,000 feet estimate was made in error. Given PRT’s current loop conditions, a distance of 18,000 feet permits the delivery of broadband at only 512 kbps download speed. Instead, an estimate of 16,000 feet should have been provided because 16,000 feet reflects the distance at which PRT’s network can deliver broadband at 768 kbps download speed.

3. I further determined that mapping radii directly around the CO or RO rather than around the Service Area Interface (“SAI”) was further flawed because it does not accurately take into account PRT’s network architecture and actual outside plant cable routes, which are better approximated by mapping radii around the SAI.

4. Unfortunately, when Connected Nation showed me its results using the earlier flawed assumptions, it was immediately apparent that the Connected Nation map significantly overstated the availability of DSL service in Puerto Rico. Because PRT could not submit the corrected data in time to meet Connected Nation’s update deadline, the broadband availability map initially released by Connected Nation overestimated that approximately 91% of Puerto Rico’s population can be served by existing non-mobile broadband access.

5. In order to provide more accurate data to Connected Nation and the FCC, and in consultation with Mr. Pederson of Connected Nation, in November 2010, PRT began a full physical geo-location survey of its SAI cabinets that are the cross-connect points at which the main feeder cable meets the distribution cable to the customer premises.

6. In PRT's network, an SAI is located at a maximum distance of 3,000 feet from the customer premises and typically serves 480 to 1,200 living units. The SAI is a wiring cross-connect field located in a small outside cabinet that permits the connection of any feeder wire pair to any distribution wire pair. The SAI predates Digital Loop Carrier deployment and has no active electronics. However, the SAI is located much closer to the customer premises than other telephone company equipment and therefore provides a good proxy for how far customer premises are from the DSLAM.

7. PRT's network has approximately 5,000 SAIs. Based on a physical survey of the SAIs, we established that 4,061 SAIs serve customer premises that are within a maximum of 16,000 feet from either a CO or RO with a DSLAM (as noted above, PRT estimates that in its network a home can be located a maximum of 16,000 feet down the cable from the DSLAM to achieve download speeds of 768 kbps). Based on the fact that SAIs are located a maximum of 3,000 feet from the customer premises they serve, mapping areas with a radius of 3,000 feet from each of these 4,061 SAIs should approximate where PRT can provide DSL broadband with download speeds of 768 kbps.

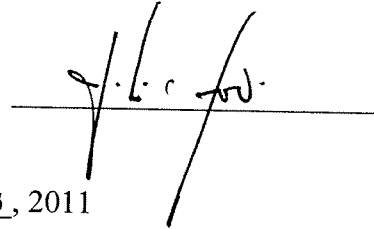
8. In December 2010, PRT explained to Connected Nation that the SAI survey would produce more accurate results and provided Connected Nation with data covering 70% of its SAIs. Connected Nation acknowledged that this data appeared to be more accurate.

However, because PRT could not complete the SAI survey by Connected Nation's February 2011 deadline, Connected Nation published a broadband availability map for Puerto Rico that was based, at least in part, on the inaccurate data PRT provided in April 2010.

9. PRT completed its full SAI survey on May 13, 2011. Using the coordinates of its SAIs and a total distance of 16,000 feet from the DSL point of presence, PRT estimates that its DSL service is available to 79.6% of homes passed by PRT's wireline telephony network. Because PRT's network does not pass all homes on the island, the percentage of homes passed by DSL service in Puerto Rico is lower than 79.6%.

I declare under penalty of perjury that the foregoing is true and correct. Executed on May 23, 2011.

Signed:



Dated: May 23, 2011